

Atty. Dkt. No. B-0459 US

REMARKS

Claims 1-9, 11-13 and 17-19 were pending. Claims 1, 11, 12 and 19 have been amended. Claim 6 has been canceled. Thus, claims 1-5, 7-9, 11-13 and 17-19 are pending. Claims 1, 11 and 19 were amended to specify that N is a molecule of a nutrient or pseudo-nutrient selected from alanine, phenylalanine, lysine, arginine, putrescine, spermidine, spermine, asparagine, agmatine and glutamine. Support for this amendment is found throughout the specification and particularly in original claim 6. Claim 12 was amended to correct a typographical error. No new matter was added. The amendments were made solely to expedite prosecution and Applicants reserve the right to pursue the originally claimed subject matter in subsequent applications.

Restriction Requirement

The Examiner has required restriction of the claims under 35 U.S.C. § 121. More specifically, the Examiner has required restriction to one of the following groups, as described below:

Group I	Claims 1-8, drawn to a MRI species of formula I
Group II	Claims 1 and 9, drawn to a process for preparing MRI species.
Group III	Claims 11-13, drawn to intermediate compounds of formula II
Group IV	Claims 1-5 and 17, drawn to methods of imaging organs/tissue
Group V	Claims 1-5 and 18, drawn to methods of diagnosing tumors
Group VI	Claim 19, drawn to a method of preparing a MRI species

The Examiner has also required the election of a species for further examination. The Examiner asserts that the Groups do not relate to a single inventive concept under PCT Rule

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13.1 because they allegedly lack a technical feature that is distinguished over the prior art. Specifically, the Examiner asserts that McBride US 5,620,675 discloses a compound that reads on the instant invention (a compound of McBride formula II "when X1 is a hydrophilic moiety the [sic – that] comprises an amino acid, polyamine species or a monosaccharide; X2 is a polyamine species, an amino acid or a monosaccharide; A1, A2 and C1 are independently L-amino acids; B1 is L-Phe; B2 is D- or L-Trp; B3 is D- or L-Lys; B4 is Thr, Phe Leu or Ile; and C2 is D- or L-Thr, Val, Phe, Leu and Ile."). Applicants respectfully traverse. McBride does not disclose a compound within the pending claims, which do contain an technical feature that distinguishes over the prior art: all claims require a compound of recited formula where N is a molecule of a nutrient or pseudo-nutrient selected from alanine, phenylalanine, lysine, arginine, putrescine, spermidine, spermine, asparagine, agmatine and glutamine. Thus, Applicants submit that the instant restriction requirement is improper and should be removed.

Additionally, Applicants note that there are some issues with the claim groupings. As the Examiner recognized in Group I, claims 1-8 are directed to a MRI detectable species of formula I. Additionally, claim 13 is directed to a pharmaceutical composition comprising a MRI detectable species of any one of claims 1 to 5 with the recited properties. Thus, Applicants submit that:

- claim 1 is not properly included in Group II, drawn to a process for preparing MRI species;
- claim 13 is not properly included in Group III, drawn to intermediate compounds of Formula II, but should be included in Group I;
- claims 1-5 are not properly included in Group IV, drawn to a method of imaging organs/tissues;
- claims 1-5 are not properly included in Group V, drawn to a method of diagnosing tumors.

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Elections

For the reasons set forth above, Applicants traverse the restriction requirement. However, for the purposes of submitting a complete response Applicants hereby elect the claims of Group I (claims 1-8) and Applicants submit that claim 13 should be included in this group as well. Applicants further elect the species of Example 2, wherein:

D is the Gd complex of diethylenetriamino pentaacetic acid (DTPA);

P is 1;

N is 0;

N is glutamine;

M is 2.

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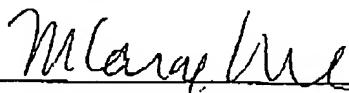
Furthermore, Applicants identify elected claims 1-5, 7-8 and 13 as encompassing the elected species.

No fee is believed to be necessary in connection with the filing of this Amendment and Response to Restriction Requirement. However, if any additional fee is necessary, applicant hereby authorizes such fee to be charged to Deposit Account No. 50-2168.

Favorable action is respectfully requested.

Respectfully submitted,

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